

¹ Appellant retired in July 2004.

Appellant submitted a collection² of audiograms conducted during his employment.³

The Office referred appellant, together with a statement of accepted facts to Dr. L. Frederick Lassen, a Board-certified otolaryngologist, for a second opinion. By report dated April 15, 2006, Dr. Lassen stated that the audiogram reflected testing at 500, 1,000, 2,000 and 3,000 cps levels and showed the following decibel losses: 25, 30, 40 and 45 in the right ear, and 50, 45, 45 and 45 in the left ear. Furthermore, he opined that appellant's hearing loss was due to noise exposure he encountered in his federal civilian employment.

By decision dated June 4, 2008, the Office accepted appellant's occupational disease claim for bilateral sensorineural hearing loss and bilateral noise-induced hearing loss.

Furthermore, based upon Dr. Lassen's report, the district medical adviser, by letter dated June 5, 2008, concluded that appellant had a bilateral ratable sensorineural hearing loss. The district medical adviser found that appellant had 15 percent monaural hearing loss in the right ear and 31.81 percent in the left ear, producing a 17.8 percent binaural hearing loss.

Appellant filed a claim for a schedule award (Form CA-7), dated June 23, 2008. By decision dated July 9, 2008, the Office awarded appellant a schedule award for 18 percent bilateral hearing loss.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions

² The record contains data from an audiogram conducted June 24, 2003. This data is contained in a document which is neither dated nor signed by a physician and lacks any indicia of identification concerning its author. As its authorship cannot be ascertained, this evidence is of no probative value and will be disregarded. *See D.D.*, 57 ECAB 734 (2006); *Merton J. Sills*, 39 ECAB 572, 575 (1988), (unsigned medical evidence with no adequate indication that it was completed by a physician is not considered probative medical evidence).

³ A July 24, 1992 audiogram reflected testing at 500, 1,000, 2,000 and 3,000 cycles per second (cps) levels and showed the following decibel losses: 15, 15, 10 and 15 in the right ear and 25, 20, 20 and 20 in the left ear. An April 6, 1993 audiogram reflected testing at 500, 1,000, 2,000 and 3,000 cps levels and showed the following decibel losses: 20, 15, 10 and 20 in the right ear and 25, 25, 15 and 15 in the left ear. A June 1, 1994 audiogram reflected testing at 500, 1,000, 2,000 and 3,000 cps levels and showed the following decibel losses: 20, 20, 10 and 15 in the right ear and 25, 25, 20 and 15 in the left ear.

Furthermore, appellant submitted a June 9, 1995 audiogram which reflected testing at 500, 1,000, 2,000 and 3,000 cps levels and showed the following decibel losses: 20, 20, 20 and 20 in the right ear and 30, 25, 20 and 15 in the left ear. A July 24, 1996 audiogram reflected testing at 500, 1,000, 2,000 and 3,000 cps levels and showed the following decibel losses: 20, 20, 20 and 20 in the right ear and 25, 25, 20 and 20 in the left ear. A May 9, 1997 audiogram reflected testing at 500, 1,000, 2,000 and 3,000 cps levels and showed the following decibel losses: 20, 15, 15 and 15 in the right ear and 25, 20, 20 and 15 in the left ear. A May 3, 1999 audiogram reflected testing at 500, 1,000, 2,000 and 3,000 cps levels and showed the following decibel losses: 20, 20, 20 and 20 in the right ear and 30, 25, 20 and 20 in the left ear. An August 10, 2000 audiogram reflected testing at 500, 1,000, 2,000 and 3,000 cps levels and showed the following decibel losses: 20, 20, 20 and 20 in the right ear and 30, 25, 25 and 20 in the left ear. These audiograms were photocopied on top of medical reports signed by Dr. Philip O. Geib, a Board-certified general surgeon. *See* note 11, *infra*.

and organs of the body.⁴ The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The implementing regulations have adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) (5th ed. 2001) as the appropriate standard for evaluating schedule losses.⁵ Effective February 1, 2001, schedule awards are determined in accordance with the A.M.A., *Guides* (5th ed. 2001).⁶

Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.⁷ Then, the fence of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech under everyday conditions.⁸ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁹ The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss; the lesser loss is multiplied by five and then added to the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss.¹⁰

ANALYSIS

The Office medical adviser applied the Office's standardized procedures to the April 15, 2008 audiogram obtained by Dr. Lassen. According to the Office's standardized procedures, testing at frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed hearing losses in the right ear of 25, 30, 40 and 45 respectively. These totaled 140 decibels which, when divided by 4, obtained an average hearing loss of 35 decibels. The average of 35 decibels, when reduced by 25 decibels (the first 25 decibels are discounted as discussed above), equals 10 decibels, which, when multiplied by the established factor of 1.5 produces a 15 percent hearing loss in the right ear.

Testing for the left ear at frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed hearing losses in the left ear of 50, 45, 45 and 45 respectively. These totaled 185 decibels, which, when divided by 4, obtains an average hearing loss of 46.25. The average of 46.25 decibels, reduced by 25 decibels (the first 25 decibels were discounted as discussed above),

⁴ The Act provides that, for complete or 100 percent loss of hearing in one ear, an employee shall receive 52 weeks' compensation. For complete loss of hearing of both ears, an employee shall receive 200 weeks' compensation. 5 U.S.C. § 8107(c)(13) (2000).

⁵ 20 C.F.R. § 10.404 (2006).

⁶ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 (June 2003).

⁷ A.M.A., *Guides* 250 (5th ed. 2001).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

equals 21.25 decibels, which, when multiplied by the established factor of 1.5 produces a 31.88 percent hearing loss in the left ear.

The district medical adviser then proceeded to calculate appellant's binaural hearing loss. The 15 percent hearing loss for the left ear, when multiplied by 5, yielded a product of 75. The 75 was then added to the 31.88 percent hearing loss for the left ear to obtain a total of 108.88. The 108.88 was then divided by 6, in order to calculate a binaural hearing loss of 17.813 percent, rounded to 18 percent.¹¹ Therefore, the evidence of record establishes that appellant has greater than a four percent binaural hearing loss.

Therefore, the Office properly calculated appellant's compensation based upon the medical evidence in the record.

CONCLUSION

The weight of the medical evidence establishes a ratable hearing loss causally related to noise exposure in federal employment.

¹¹ The Board notes that the Office's reliance on Dr. Lassen's data is substantially more favorable to appellant than relying on the audiograms he submitted. As a general rule, if an audiogram is prepared by an audiologist it must be certified by a physician as being accurate before it can be used to determine the percentage of hearing loss. *Joshua A. Holmes*, 42 ECAB 231, 236 (1990). Dr. Geib did not certify the accuracy of the audiograms appellant submitted and, consequently, these audiograms are of little probative value.

Regardless, utilizing the formulaic analysis applied above to the data contained in any of the audiograms conducted between June 9, 1995 and August 10, 2000, reveals a zero percent monaural hearing loss in both ears and zero percent binaural hearing loss. *See* note 3, *supra*. Thus, the Office's reliance on Dr. Lassen's medical report permitted that which appellant's historical audiograms would have prohibited.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 9, 2008 is affirmed.

Issued: May 5, 2009
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board